

B. B.

DEC 17 1951

Mr. Roger W. Jones
Assistant Director for
Legislative Reference
Bureau of the Budget
Washington 25, D. C.

Dear Mr. Jones:

Public Law 201 of the 82nd Congress increased the basic rates of compensation of Government employees whose positions were established under the Classification Act of 1949. The Central Intelligence Agency is specifically exempted from the Classification Act of 1949 (Section 202(16) - Public Law 429, 81st Congress).

Under the authority of the Central Intelligence Agency Act of 1949 (Public Law 110, 81st Congress) CIA has adopted the amended pay scales which became effective with the signing of Public Law 201 on October 24, 1951. This is in accordance with administrative determinations and agreements that CIA will apply the provisions of that Act to its employees insofar as practicable.

While Public Law 201 was approved on October 24, 1951, its effective date was as of the first day of the first pay period which began after June 30, 1951. CIA therefore desired to make its pay increases retroactive to July 8, 1951 and requested a ruling from the Comptroller General on this subject. In an opinion rendered to the Director of the Central Intelligence Agency on November 21, 1951 (No. B-106516), the Comptroller General ruled that CIA did not have the necessary specific authority to make the increases retroactive to July 8. In his opinion, the Comptroller General stated in regard to CIA employees that --

"... the employees are not subject to the classification act, as amended, are not included in Public Law 201, expressly or by necessary implication, and there is no specific statutory authority for granting them retroactive salary increases. To those facts there must be applied the long established and recognized rule that retroactive salary increases may be granted only by express authority of the Congress and may not otherwise be granted administratively."

In view of this decision, CIA, all of whose employees are exempted from the Classification Act, requests that it be included in any legislation which the Bureau of the Budget is considering which will secure the retroactive payments for its employees. In the interests of equitable treatment, it is also requested that consideration be given to provision in such proposed legislation for the taxation of such retroactive pay under the laws which were in effect at the time the pay was earned and not under the new tax schedules which were placed in effect by the Revenue Act of 1951 (Public Law 183, 82nd Congress).

Sincerely yours,

/s/

WALTER R. WOLF
Deputy Director
(Administration)

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